



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,265	07/28/2000	Eugene B. Porter	VAL-488-A	3729

7590 04/25/2003

Andrew R Basile
Young & Basile P C
3001 West Big Beaver Road
Suite 624
Troy, MI 48084-3107

EXAMINER

KLAUS, LISA NHUNG

ART UNIT PAPER NUMBER

2832

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/628,265

Applicant(s)

PORTER ET AL.

Examiner

Lisa N. Klaus

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/28/2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because figures 5 and 6 are not clear.
 - Figure 5, the element numbers 48 and 74 appear to be the same.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:
 - page 6, line 3, there is no reference number for "worm gear".
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, in claim 1, "a windshield wiper park position", "a windshield wiper" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 1 is objected to because of the following informalities:

Regarding claim 1, applicant should clarify "a rotatable drive gear adapted to be coupled to a windshield wiper", "a non-contact position detector cooperatively arranged between the drive gear and the housing". Is "a rotatable drive gear" (claim 1, line 4) the same with "a drive gear" (claim 1, line 5)? Appropriate correction is required.

Specification

5. The disclosure is objected to because of the following informalities:

- The reference 15 in figures 1, 5 and 6 is not described in the specification.
- The reference character "42" (page 5, line 28) has been used to designate both "spindle or pivot post" and "the output shaft" (page 6, line 5).
- The reference character "50" has been used to designate both "sensor" and "spindle" (page 7, lines 18 and 22).
- The reference characters "30" and "50" have both been used to designate "spindle" (page 7, lines 20 and 22).
- The reference characters "54" and "64" have both been used to designate "the switch trigger cam" (page 7, lines 28 and 30). Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "adapted to" in claim 1 is a relative term which renders the claim indefinite. The term "adapted to" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Regarding claim 7, "the interengaging member" lacks antecedent basis.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Weber et al. (US 6,384,557).

Weber discloses a windshield wiper drive device comprising:

- a housing 7,
- a rotatable drive gear 3 rotatable mounted in the housing;
- a non-contact position detector 5 and 6 cooperatively arranged between the drive gear and the housing to detect a rotation position of the drive gear corresponding to the windshield wiper park position;
- a magnetically responsive sensor 6 mounted in the housing;
- a magnet movably disposed in the housing in an intersecting path of movement with respect to the sensor;
- the magnet is mounted on the drive gear.

Allowable Subject Matter

8. Claims 4-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is an examiner's statement of reasons for allowance:

The prior art fails to show the windshield wiper drive comprising a cam rotatably mounted in the housing, the magnet carried on the cam, the interengaging members carried on the drive gear and the cam for rotating the cam along with rotation of the drive gear in the normal direction of rotation of the drive gear.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

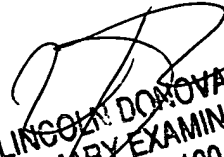
10. Any inquiry concerning this communication should be directed to Lisa Nhung Klaus whose telephone number is (703)305-0422, and whose fax number is 703-308-7722. In the event that I am not reached, you can contact my supervisor, Mr. Elvin G. Enad at (703) 308-7619 or the tech center receptionist at (703)308-1782.

LK

Lisa Nhung Klaus

Patent Examiner - Art Unit 2832

March 31, 2003


LINCOLN DONOVAN
PRIMARY EXAMINER
GROUP 2100